

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

SAMANTHA MURRAY,	*	C.A. No.
	*	
Plaintiff,	*	
	*	
v.	*	
	*	<b>TRIAL BY JURY DEMANDED</b>
DOVER DOWNS, INC.,	*	
a Delaware corporation,	*	
	*	
Defendant.	*	

**COMPLAINT**

1. Plaintiff Samantha Murray is a resident of the State of Delaware, residing at 18 Loockerman Court, Dover, Kent County, Delaware.

2. Defendant Dover Downs, Inc., is a Delaware corporation whose registered agent for service of process is Klaus N. Belohoubek, 3505 Silverside Road, Plaza Centre Building, Suite 203, Wilmington, Delaware 19810.

3. Defendant is an employer within the State of Delaware and within the jurisdictional coverage of Title VII of the Civil Rights Act, 42 U.S.C. §2000e, *et seq.*, and of 42 U.S.C. §1981.

4. Jurisdiction is conferred on this Court by 42 U.S.C. §2000e-5(f)(3) and by 28 U.S.C. §1343.

5. Venue for all causes of action stated herein lies in the District of Delaware, as the acts alleged as the bases for these claims took place within the boundaries of that District.

6. Plaintiff brings this action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, *et seq.*, and under 42 U.S.C. §1981, to redress the wrongs done to her by

Defendant's discrimination against her on the basis of her sex and race and on the basis of retaliation.

7. Plaintiff timely submitted a complaint of discrimination to the Delaware Department of Labor ("DDOL") and the Equal Employment Opportunity Commission ("EEOC").

8. Plaintiff has received a Notice of Right to Sue for the above-referenced charge from the EEOC.

9. Plaintiff has timely filed this Complaint within 90 days of her receipt of the Notice of Right to Sue.

10. Plaintiff is a black female.

11. Plaintiff began employment by Defendant at its Dover, Delaware, location as a security guard in approximately November 1995, and subsequently was promoted to a management position in the security department.

12. At all times relevant to this Complaint, Plaintiff was qualified for her job position and satisfactorily performed all duties of her job position.

13. At all times relevant to this Complaint, Plaintiff's immediate supervisor was a white male, and her co-workers were predominantly white and male.

14. During the period of her employment, Plaintiff has suffered severe and pervasive sexual harassment from both her white male supervisors and her white male co-workers such that a hostile working environment has been created.

15. Early in her employment, after complaining about sexual harassment by a co-worker, Plaintiff was informed by her supervisor that she needed to have a "thick skin" regarding the

harassment, and accordingly, Plaintiff ceased complaining about the sexual harassment for an extended period of time, even though the harassment was unwelcome, for fear of losing her job.

16. In addition, throughout her employment, Plaintiff suffered discrimination on the basis of her race.

17. Despite her fear of losing her job, Plaintiff complained to human resources personnel of Defendant regarding sexual harassment by her co-workers and her immediate supervisor. Defendant's response to these complaints was inadequate and inappropriate, including the involvement of Plaintiff's immediate supervisor, Lee Ford, in the investigation of the complaints.

18. In March 2005, Plaintiff submitted an application for a promotion. Defendant denied Plaintiff the promotion in retaliation for her complaints of sexual harassment and on the basis of her race.

19. As a result of the hostile work environment and discrimination to which Plaintiff has been subjected, Plaintiff has suffered mental and emotional anguish requiring treatment by health care professionals.

20. In May 2005, Plaintiff suffered a work-related injury and as a result has been unable to perform the duties of her position. Defendant has denied Plaintiff the opportunity for light duty work, which she could have performed, on the basis of her sex and her race and in retaliation for her complaints of discrimination.

21. The wrongful acts committed by Defendant and its agents, as stated hereinabove, were wilful, wanton, and committed in bad faith.

**COUNT I - TITLE VII VIOLATIONS**

22. Plaintiff hereby restates and incorporates by reference paragraphs 1 through 21 hereinabove.

23. By committing the aforementioned acts, Defendant has discriminated against Plaintiff on the basis of her sex in violation of 42 U.S.C. §2000e, *et seq.*

24. Defendant has also violated 42 U.S.C. §2000e, *et seq.*, by retaliating against Plaintiff due to her complaints of discrimination and her filing of a claim with the DDOL and the EEOC.

25. As a direct result of the discriminatory and retaliatory conduct of Defendant, Plaintiff has suffered damages, including but not limited to, severe emotional distress, pain and suffering, mental anguish, humiliation, and lost wages, including a reduction in her short term disability payments.

WHEREFORE, Plaintiff Samantha Murray demands judgment against Defendant for:

- a. Back pay, including interest;
- b. Compensatory damages, including damages for pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and all other non-pecuniary damages;
- c. Receipt of the promotion to which she was entitled or, in the alternative, front pay;
- d. Punitive damages;

- e. Pre-judgment and post-judgment interest;
- f. Attorney's fees; and
- g. Any other relief that this Court deems just.

**COUNT II - VIOLATIONS OF 42 U.S.C. §1981**

26. Plaintiff hereby restates and incorporates by reference paragraphs 1 through 25 hereinabove.

27. By committing the aforementioned acts, and specifically by discriminating against Plaintiff on the basis of her race, Defendant has violated 42 U.S.C. §1981.

28. As a direct result of the discriminatory and retaliatory conduct of Defendant, Plaintiff has suffered damages, including but not limited to, severe emotional distress, pain and suffering, mental anguish, humiliation, and lost wages.

WHEREFORE, Plaintiff Samantha Murray demands judgment against Defendant for:

- a. Back pay, including interest;
- b. Compensatory damages, including damages for pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and all other non-pecuniary damages;
- c. Receipt of the promotion to which she was entitled or, in the alternative, front pay;
- d. Punitive damages;
- e. Pre-judgment and post-judgment interest;
- f. Attorney's fees; and
- g. Any other relief that this Court deems just.

SCHMITTINGER & RODRIGUEZ, P.A.

BY: 

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BY: 

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DATED: 5-16-06  
NEP:pmw

JS 44 (Rev. 11/04)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

Samantha Murray

Kent

(b) County of Residence of First Listed Plaintiff Kent  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Law Offices of Schmittinger & Rodriguez, P.A.  
414 S. State Street, P.O. Box 497  
Dover, DE 19903 (302) 674-0140

**DEFENDANTS**

Dover Downs, Inc., a Delaware corporation

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>CIVIL RIGHTS</b> <input checked="" type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Security Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 U.S.C. 2000e et seq. and 42 U.S.C. 1981

Brief description of cause: to redress Defendant's discrimination on basis of race and sex against Plaintiff, as well as retaliation.

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_